

Apr 25 08 09:45p

RECEIVED  
CENTRAL FAX CENTER

P. 1

APR 25 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,225	04/20/2004	Scott C. Bender		2914

7590  
Scott Bender, DVM  
P.O. Box 2204  
Chinle, AZ 86503

03/26/2008

EXAMINER

PACKARD, BENJAMIN J

ART UNIT PAPER NUMBER

1612

MAIL DATE DELIVERY MODE

03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DEAR MR. PACKARD;

REGARDING MY PATENT APPLICATION. YOU ARE CORRECT - I'M NOT A LAWYER AND I'M DOING THE BEST I CAN IN UNDERSTANDING THIS LETTER. DUE TO TIMING ISSUES AND DIFFICULTY IN ACCESSING COMMUNICATION FROM MY LOCATION (THE NAVAJO RESERVATION IN THE FOUR CORNERS AREA) I HAVE BEEN UNABLE TO MAKE CONTACT WITH YOU, THUS THIS LETTER BY FAX.

I HOPE TO BE ABLE TO SAVE MY APPLICATION AND CONTINUE THE PROCESS REQUIRED FOR PATENT.

I HAVE MADE MULTIPLE READS OF YOUR LETTER AND APPARENTLY THERE IS SOME QUESTION AS TO THE MY CLAIMS, AND ANOTHER CLAIM BEING MADE. AFTER READING US2002/0098224, I WILL STATE THAT THERE IS SUBSTANTIAL DIFFERENCE BETWEEN THE CLAIMS; 1) MY CLAIM IS FOR A DIAGNOSTIC AID OR TOOL AND NOT FOR TREATMENT 2) IS A COMBINATION OF HISTAMINE AND PROPARACAIN AS AN OPHTHALMIC SOLUTION TO AID IN IDENTIFICATION AND BIOPSY OF LYMPHATIC TISSUE LOCATED WITHIN THE EYE 3) MY APPLICATION IS NOT RESTRICTED TO HUMAN APPLICATION BUT IS INTENDED TO AID BIOPSY OF LYMPHATIC TISSUES IN THE DIAGNOSIS OF TRANSMISSABLE SPONGIFORM ENCEPHALITIS DISEASES SUCH AS SCRAPIE IN SHEEP.

BUT GIVEN THAT I HAVE AN ABILITY TO READ MEDICAL BUT NOT LAWYER LANGUAGE, I MAY NOT HAVE ADDRESSED YOUR QUESTION(S). AND YOU APPEAR TO BE CORRECT IN CLAIM 3, IF I'M INCORRECT, PLEASE LET ME KNOW.

THE INITIAL APPLICATION WAS SENT BACK ORIGINALLY TO HAVE THE CLAIMS EXPANDED, FROM THE USPTO, AS IT APPEARED TO NEED THIS CLARIFICATION.

MY CLAIM FOR INVENTION IS HISTAMINE-PROPARACAIN EYEDROPS; APPLICATION APPLIES TO USE AS A DIAGNOSTIC TOOL OR AID, APPLICATION IS USEFUL IN ALL SPECIES, APPLICATION IS USED TO IDENTIFY LYMPHATIC TISSUES WITHIN THE EYE.

THANK YOU FOR YOUR TOLERANCE OF APPLICATION AND OF MY INEXPERIENCE IN DOING A PATENT CLAIM. I NOW UNDERSTAND MUCH MORE ABOUT THE DIFFICULTY IN PATENTING, IF NOT THE PROCESS AND LANGUAGE OF THE USPTO.

THANKS AGAIN FOR YOUR TIME AND EFFORTS. AS COMMUNICATION HAS BEEN DIFFICULT AT BEST, PLEASE FEEL FREE TO COMMUNICATE VIA FAX @ 928-674-2257 or 928-674-2135 or THE PTOL-90A (Rev. 04/07) "OLD FASHIONED" USPTO SYSTEM.

RESPECTFULLY SUBMITTED

APR 25 2008

Office Action Summary	Application No.	Applicant(s)	
	10/827,225	BENDER, SCOTT C.	
	Examiner Benjamin Packard	Art Unit 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☐ Responsive to communication(s) filed on \_\_\_\_.

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-8 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_ is/are objected to.

8) ☒ Claim(s) 1-8 are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.

4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_.

U.S. Patent and Trademark Office  
PTOL-326 (Rev. 08-06)

Office Action Summary

Part of Paper No./Mail Date 20080312